UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,751	06/28/2001	Masaya Nambu	1076.1069	3648

21171	7590	12/09/2004

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EXAMINER
TRAN, ELLEN C

ART UNIT	PAPER NUMBER
2134	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/892,751	NAMBU, MASAYA
	Examiner	Art Unit	
	Ellen C Tran	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *28 June 2001*.

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-20* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☒ All b)☐ Some * c)☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date *Aug'01 & Nov '03*.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communication: original application filed

28 June 2001, with acknowledgment of foreign priority date of 5 March 2001.

2..   Claims 1-20 are currently pending in this application. Claims 1, 7, 15, 16, 18, and 20, are

independent claims.

Claim Objections

3.   Claim 9 is objected to because of the following informalities: misspelling line 23 states:

"processing mans" text should read "processing means". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language

5.   **Claims 1, 4, 7, 12, and 15** are rejected under 35 U.S.C. 102(e) as being anticipated by

Hodges et al. U.S. Patent No. 6,269,456 (hereinafter '456).

As to independent claim 1, "A method for providing virus vaccine software to a user

terminal with a maintenance server that includes a first memory for storing information

related to how a new virus is countered and a second memory for storing user information,

the method comprising:" is taught in '456 col. 4, lines 51-64;

"receiving virus countering information from a terminal of at least one vaccine

software maker and storing the received virus countering information in the first memory"

is shown in '456 col. 6, lines 51-67;

"receiving vaccine software-related information from at least one user terminal and

storing the received vaccine software-related information in the second memory" is

disclosed in '456 col. 7, lines 32-43;

"receiving the vaccine software-related information of a user from the second

memory" is taught in '456 col. 9, line 62 through col. 10, line 11;

"receiving new virus countering information from the first memory based on the

vaccine software-related information" is shown in '456 col. 10, lines 22-49;

"and distributing vaccine software that corresponds to the new virus to the user

terminal when the vaccine software presently used by the user terminal does not

correspond to the new virus and the user wishes to be provided with updated vaccine

software" is disclosed in '456 col. 11, line 61 through col. 12, line 48.

As to dependent claim 4, "further comprising: determining whether the vaccine

software used by the user terminal corresponds to the new virus when the user terminal is

activated or at a predetermined time" is taught in '456 col. 5, lines 24-49.

As to independent claim 7, "A program for operating a computer that provides

virus vaccine software to at least one user terminal, the program causing the computer to

define: a first memory means for receiving virus countering information from a terminal of

at least one vaccine software maker and storing the received virus countering information;

a second memory means for receiving vaccine software-related information from at least

one user terminal and storing the received vaccine software-related information" is taught

in '456 col. 4, lines 51-64;

"a new anti-virus processing means for receiving the vaccine software-related

information of the user terminal from the second memory means and receiving the new

virus countering information from the first memory means based on the received vaccine

software-related information" is shown in '456 col. 10, lines 22-49;

"wherein the new anti-virus processing means generates information to distribute to

the user terminal updated vaccine software corresponding to the new virus when the

vaccine software presently used by the user terminal does not correspond to the new virus

and the user wishes to be provided with the updated vaccine software; and a resource

distributing means for receiving the information from the new anti-virus processing means

and distributing the updated vaccine software that corresponds to the new virus based on

the information" is disclosed in '456 col. 11, line 61 through col. 12, line 48.

As to dependent claim 12, "wherein the new anti-virus processing means includes: a

new virus information processing means for acquiring virus countering information from a

terminal of at least one vaccine software maker and storing the acquired virus countering

information in the first memory means; and a user information processing mans for

acquiring vaccine software-related information from the user terminal and storing the

acquired vaccine software-related information in the second memory" is taught in '456 col.

9, line 62 through col. 10, line 11.

As to independent claim 15, this claim contains substantially similar subject matter as

claim 1 and is rejected along the same rationale.

6.   **Claims 16-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Whittaker et al.

U.S. Patent Application Publication No. 2002/ 0178375 (hereinafter '375).

As to independent claim 16, "A method for recovering from a fault when a fault

occurs during execution of a first program" is taught in '375 page 2, paragraph 0016;

"the method comprising: receiving fault-related information from the computer

executing the first program; investigating a cause of the fault from the fault-related

information" is shown in 375 page 3, paragraph 0039;

and instructing the computer to replace the first program with a second program

when the cause of the fault is unidentified" is disclosed in '375 page 6, paragraph 0075.

As to dependent claim 17, "further comprising: distributing the second program to the

computer" is taught in '375 page 6, paragraph 0075.

As to independent claim 18, this claim is directed to the system of the method of claim

16 and it is rejected along the same rationale.

As to dependent claim 19, this claim is substantially similar to claim 17 and is rejected

along the same rationale.

As to independent claim 20, this claim is directed to a computer program of the method

of claim 16 and it is rejected along the same rationale.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   **Claims 2, 8, and 9,** are rejected under 35 U.S.C. 103(a) as being unpatentable over '456

as applied to above claims, in further view of Melchione et al., U.S. Patent Application

Publication No. 2002/0091819 (hereinafter '819).

   As to dependent claims 2, "and an install program for installing the distributed new

vaccine software in the user terminal" is taught in '456 col. 5, lines 24-37 "The central server

uses push technology to automatically transmit antivirus software updates to the local area

network antivirus server whenever any of the plurality of local client computers contain antivirus

software which is out of date";

the following is not taught in '456: "further comprising: automatically generating an uninstall

program for deleting the vaccine software in the user terminal" however '819 teaches "The

agent 108, in conjunction with the policy orchestrator server 102, monitors and records system

properties, records events, installs and uninstalls software" on page 2, paragraph 0035.

   It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify a method for providing virus vaccine software to a user terminal taught in '456 to

include a means to delete previous vaccine software. One of ordinary skill in the art would have

been motivated to perform such a modification to ease the management of delivering virus

protection software see '819 (page 1, paragraph 0006) "In addition, the large number of

computers and sites in a large network under management increases the complexity of the

process may increase disproportionately."

   As to dependent claim 8, this claim contains substantially similar subject matter as claim

2 and is rejected along the same rationale.

As to dependent claim 9, "wherein the new anti-virus processing means includes: a new virus information processing means for acquiring virus countering information from a terminal of at least one vaccine software maker and storing the acquired virus countering information in the first memory means; and a user information processing mans (means) for acquiring vaccine software-related information from the user terminal and storing the acquired vaccine software-related information in the second memory" is taught in '456 col. 5, lines 24-49 "The central server uses push technology to automatically transmit antivirus software updates to the local area network antivirus server whenever any of the plurality of local client computers contain antivirus software which is out of date".

9.   **Claims 3, 5, 6, 10, 11, 13, and 14,** are rejected under 35 U.S.C. 103(a) as being unpatentable over '456 in further view of '819, in further view of Kim et al., U.S. Patent No. 6,701,440 (hereinafter '440).

As to dependent claim 3, the following is not taught in the combination of '456 and '819: "wherein the step of receiving new virus countering information is performed when a new virus is generated in the user terminal" however '440 teaches "The user may choose to deleted the infected e-mail message, specify an address to which to forward the infected e-mail message, allow the infected e-mail to remain in the quarantine server 110 or request the service provider to attempt to clean the infected e-mail message again. For example, the virus protection software program may utilize heuristics to detect viruses that are not yet known. In addition, the virus protection software program may be able to identify and detect known viruses even before a cleaning method becomes available, such as may be the case for new viruses. The virus protection may be updated when a cleaning method for such a virus becomes available at a later

time. Further, for an e-mail means which the virus protection software may not be able to scan, such as certain encrypted e-mail messages, the e-mail message may also be quarantined, for example, until the virus protection software is updated so as to be able to scan the message. Thus allowing the infected e-mail message to remain in the quarantine server 110 allows additional attempts to clean the infected e-mail message after the virus protection software is updated" in col. 7, lines 38-61.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify a method for providing virus vaccine software to a user terminal with a means to delete previous vaccine software taught in '456 and '819 to include a means to update the vaccine software when a virus is detected. One of ordinary skill in the art would have been motivated to perform such a modification because most antivirus programs are routinely updated when new virus are detected see '440 (col. 2, lines 5 et seq.), "As noted, many antivirus programs have become commercially available for protection against viruses. The antivirus program is typically a utility that searches a hard disk for viruses and removes any that are found. The antivirus program my periodically check the computer system for the best-known types of viruses. Most antivirus programs include an auto-update feature that enables the antivirus program to download profiles of new viruses so that the antivirus program can check for new viruses soon after the new viruses are discovered".

As to dependent claim 5, "wherein the step of receiving new virus countering information is performed when a new virus is generated in the user terminal" is shown in '440 col. 7, lines 38-61.

As to dependent claim 6, "further comprising; determining whether the vaccine software used by the user terminal corresponds to the new virus when the user terminal is activated or at a predetermined time" is disclosed in '456 col. 5, lines 24-37.

As to dependent claims 10, 11, 13, and 14 these claims contain substantially similar subject matter as claims 5 and 6; therefore they are rejected along the same rationale.

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen C Tran whose telephone number is

(571) 272-3842. The examiner can normally be reached from 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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18 November 2004

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